

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

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**CAREY SMITH,**

**Plaintiff,**

**-versus-**

**NEW YORK STATE CORRECTIONS  
OFFICER (“CO”) KYLE KENNEDY;  
CO JOHN CRANCE;  
CO STEVE MAHUNIK; and SGT. JOSEPH DUDA,  
in their official capacities,**

**Defendants.**

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**18-cv-06658 (DGL)(MJP)**

**NOTICE OF CROSS-  
MOTION FOR A  
PROTECTIVE ORDER**

**PLEASE TAKE NOTICE THAT,** upon the Declaration of Moira Meltzer-Cohen dated November 20, 2023 and all exhibits thereto, as well as the November 20, 2023 Memorandum of Law in support of this application, and all of the prior pleadings and proceedings had herein, Plaintiff hereby moves this Court, consistent with the Court’s November 17, 2023 Order (ECF 98), pursuant to Fed.R.Civ.P. 26 and 30, and other statutory and case law cited in the supporting motion papers, in addition to Plaintiff CAREY SMITH’s opposition to the pending motion to compel (ECF 85), Plaintiff will move this Court, before the Honorable Mark W. Pedersen, at the United States Courthouse for the Western District of New York, located at 100 State Street, Rochester, New York 14614, on a date and time to be determined by the Court, for a protective order precluding Defendants from obtaining the privileged mental health and substance abuse-related documents they now seek, as well as limiting the scope of Plaintiff’s anticipated second deposition.

Plaintiff respectfully requests oral argument in connection with her opposition and cross-motion.

Dated: Brooklyn, NY  
November 20, 2023

/S/

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Moira Meltzer-Cohen  
Gideon Oliver  
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cc: Counsel of Record (by ECF)